

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
March 10, 2021

I. Call to order

Chairman Mike Brown called to order the meeting of the Unified Board of Zoning Appeals at 12:00 PM on Wednesday, March 10, 2021 in the 5th floor conference room of the Wells Fargo building located at 201 South Hamilton Street, Dalton, Georgia.

II. Roll call

The following persons were confirmed as present at the meeting either in person or via the GoToMeeting video platform:

Board members:

Mike Brown

Kenneth Harless (via GoToMeeting)

Austin King (via GoToMeeting)

Debby Peppers (via GoToMeeting)

Tracy Ward (via GoToMeeting)

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Jake Bearden, Whitfield County Engineering

Chris Hester, Whitfield County Engineering (via GoToMeeting)

Robert Smalley, County Attorney (via GoToMeeting)

Others:

Neil Ridley

Steve Payne

Greg Musto (via GoToMeeting)

Darrin Hardin (via GoToMeeting)

III. Approval of minutes from February 10, 2021 BZA meeting

Motion to approve the minutes of the Unified Board of Zoning Appeals meeting for February 10, 2021 made by Austin King and seconded by Tracy Ward. The motion passed 5-0.

V. New Business

Appeal Hearing #1

Applicant/Property Owner: Ronnie Neil Ridley

Property Address: 231 Heavens Way (unincorporated county jurisdiction)

The applicant was present at the hearing. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is located along the south side of Riverdale Road in the northeast area of the county. The 113.29-acre lot is currently zoned GA, General Agriculture and is located in the unincorporated area of Whitfield County.

The applicant's home and the homes of several of his family members are located on the property. The applicant received plat approval in 2011 in order to deed his brother 20 acres to be accessed by a 50-foot wide family easement. The applicant still plans to deed the acreage to his brother but wishes instead to revise the plat to show a flag lot with a 25-foot wide strip of ownership from the public road so his brother can install his own driveway. The applicant will need a variance to allow a twenty-five (25) foot width for panhandle access to a flag lot. Staff noted if the variance is granted, the applicant will also be required to seek Planning Commission approval for the flag lot before the final plat can be approved .

The applicant wishes to provide his brother with the property needed to install his own driveway and not have to share a driveway with the applicant's children. The owner's personal home is too close to the property line to provide his brother with the required minimum 50-foot panhandle width. The applicant claims he tried unsuccessfully to purchase additional property from the adjacent owner to the east so he would be able to comply with the subdivision regulations. The 25-foot strip will be used only for a driveway and possibly other utility infrastructure.

The applicant requested a variance from Section 15-34(6) of the Whitfield County Subdivision Regulations to allow a reduction in the required minimum fifty-foot width for panhandle access to a flag lot in the GA, General Agriculture zoning district.

After some discussion, Tracy Ward made a motion, seconded by Debby Peppers, to grant the variance to allow a twenty-five (25) foot width for panhandle access to a flag lot. The motion passed 5-0.

Appeal Hearing #2

Applicant/Property Owner: Standin Partners LLC

Property Address: off Old Fields Road (unincorporated county jurisdiction)

The applicant was present at the hearing via the GoToMeeting platform. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is the Brookstone PH 2-Collington Subdivision off Old Field Road south of the bypass at Connector 3. The preliminary plat has been approved and is awaiting final plat approval. The property is currently zoned R-3, Conditional Transitional Residential and is located within the unincorporated county. There is a new looped road under construction at the site. The subdivision will be served by public water and public sewer.

Brookstone PH 2 Subdivision was preliminarily approved in 2009. At that time, the roads were graded, the storm water pond partially constructed, and the water/sewer lines installed. No further construction occurred until recently when the property was purchased, rezoned to R-3, and the preliminary plat re-approved by the Planning Commission. One of the Board of Commissioner conditions placed on the rezoning approval was to leave as much vegetation as possible to serve as a barrier along the south property line. Additionally, there is substantial amount of wetlands requiring protection on the site.

The applicant noted the wetlands and the Board of Commission required buffer limits the available building space on several of the lots in the new subdivision (now called Collington Subdivision). The applicant explained when grading the lots for building pads, he realized if the houses could be moved forward on several impacted lots, he could provide the required conditional buffer and eliminate or reduce the number of necessary retaining walls. It was noted the county engineers have stated they support the variance request.

The applicant requested **a variance from Chart 3.7 of the Unified Zoning Ordinance to allow a front building setback encroachment of between 5 to 10 feet on 25 of the 60 lots in the subdivision. Currently, a minimum of 25 feet is the required building setback from a local street for a structure in the R-3 zoning district.**

After some discussion, Debby Peppers made a motion, seconded by Austin King, to grant the variance to allow up to a ten (10) foot encroachment into the front building setback area for the 25 lots as shown on the plat presented to the Board.
The motion passed 5-0.

Appeal Hearing #3

Applicant/Property Owner: Fernando Paniagua

Property Address: 1219 Yorkshire Place (City of Varnell jurisdiction)

The applicant was represented at the hearing by his builder, Steve Payne. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is designated as Lot 21 of The Springs Subdivision off Georgia Highway 2. The 1.69-acre lot is currently zoned R-1, Estate Residential and is located within the city limits of Varnell. The foundation and poured basement walls are in place for a single family dwelling under construction on the site.

While the lot in question is almost two acres in size, the rear of the property is considerably lower than the front of the lot adjacent to the road. This may be ideal for a daylight basement but reduces the amount of compacted area stable enough for the foundation of the structure under construction. A small sliver of the northeast corner of the foundation is encroaching into the required minimum front building setback. The zoning ordinance requires a 25-foot building setback from a local street for a property in a residential zoning district.

The builder explained the lot falls 40 feet from front to rear. As a result, the builder explained his attempt to move the house as far forward on the lot as possible and away from the area delineated by the Environmental Health Department for the septic system. The builder stated he used the adjacent lot corner pins as reference points but later discovered one of the lot pins had been incorrectly placed. After the foundation survey was performed, the builder discovered the front center of the house to the east front corner of the house encroaches from zero to 2.5 feet into the front building setback area. The builder noted it would cost approximately \$30,000 to tear down the basement walls and move the footings.

Greg Musto, representing The Springs Homeowners Association, stated the association understood a builder measurement error had occurred. While the association is not happy with the outcome, they do not want the builder to incur an additional hardship. They only ask the builder to be more careful in the future when measuring the setbacks for other lots he plans to build upon in the subdivision

The applicant requested **a variance from Chart 3.7 of the Unified Zoning Ordinance to allow a building setback of 22.5 feet instead of the required twenty five-foot minimum building setback from a local street for a structure in the R-1 zoning district.**

After some discussion, Kenneth Harless made a motion, seconded by Debby Peppers, to grant the variance to allow up to a 2 1/2 foot encroachment into the front building setback area for Lot 21 in the Springs Subdivision
The motion passed 5-0.

VI. Other business

Staff noted there have been applications already filed for the April 14 BZA meeting.

VII. Adjournment

Chairman Mike Brown adjourned the meeting at 12:23 PM.

Minutes respectfully submitted by: **Jean Price-Garland**